

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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In re : Chapter 9
:
CITY OF DETROIT, MICHIGAN, : Case No. 13-53846
:
Debtor. : Hon. Thomas J. Tucker
:
:
-----X

**STIPULATION TO THE ENTRY OF AN ORDER CONCERNING (A) ASSUMPTION
OF EXECUTORY CONTRACTS BETWEEN CITY OF DETROIT, MICHIGAN AND
WEISS CONSTRUCTION COMPANY; AND
(B) DISALLOWING PROOF OF CLAIM NUMBER 3491**

The City of Detroit, Michigan and Weiss Construction Company stipulate and agree to the entry of the Order Concerning (A) Assumption of Executory Contracts between City of Detroit, Michigan and Weiss Construction Company; and (B) Disallowing Proof of Claim Number 3941, in the form of Exhibit 1 appended to this Stipulation.

By: /s/Louis P. Rochkind with consent
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ATTORNEYS FOR
WEISS CONSTRUCTION COMPANY

Dated: March 31, 2015

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ATTORNEYS FOR THE CITY

Exhibit 1

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

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In re : Chapter 9
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CITY OF DETROIT, MICHIGAN, : Case No. 13-53846
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**ORDER CONCERNING (A) ASSUMPTION OF EXECUTORY CONTRACTS
BETWEEN CITY OF DETROIT, MICHIGAN AND WEISS CONSTRUCTION
COMPANY; AND (B) DISALLOWING PROOF OF CLAIM NUMBER 3491**

Upon the stipulation of City and Weiss to the entry of this Order, and the Court otherwise being fully informed in the premises,

IT IS HEREBY ORDERED as follows:

1. For purposes of this Order, capitalized terms used in this Order shall have the following meanings:
 - a. "Chapter 9 Case" means the bankruptcy case commenced by the City under chapter 9 of the Bankruptcy Code captioned as *In re City of Detroit, Michigan*, Case No. 13-53846 (Bankr. E.D. Mich.).
 - b. "City" means City of Detroit, Michigan.
 - c. "Claim No. 3491" means the proof of claim filed by Weiss on February 21, 2014 in the Chapter 9 Case.
 - d. "Confirmation Order" means the Order Confirming Eighth Amended Plan for the Adjustment of Debts of the City of Detroit dated November 12, 2014 at Dkt # 8272.
 - e. "Cure Amount Claim" means a claim based upon the City's defaults under an executory contract at the time such contract is assumed by the City under section

365 of the Bankruptcy Code to the extent such claim is required to be cured by section 365 of the Bankruptcy Code.

- f. "Effective Date" means December 10, 2014.
- g. "Executory Contract" means each of the following contracts between the City and Weiss:

<u>JOB NO.</u>	<u>DESCRIPTION</u>		
2010-03	PC-776 RAS PUMPS	16586 2818679	Sewerage Dept.
2011-01	PC-756 PRIMARY CLAR #13-16	16586 2842733	Sewerage Dept.
2012-02	PC-783 UNDRGND DUCTBANK RPR	16586 2860669	Sewerage Dept.
2012-03	PC-787 BELT FILTER PRESSES	16586 2860743	Sewerage Dept.
2013-01	RFP#42808 UPGRD SLUDGE FILTER PUMP	16586 2879176	Water Dept.
2013-03	RFP#43860 AERATION BLOWERS	16586 2880448	Water Dept.
2013-04	PC-789 RACK & GRIT	16586 2883226	Sewerage Dept.
2013-06	RFB#45890 SFE STRAINERS	16586	Water Dept.
2014-01	RFB#46533 VR8 FLOW CONTROL	16586 2888943	Water Dept.
2014-07	Emergency Sludge Feed Pump Rebuild	16586	Water Dept.

- h. "Plan" means the Eighth Amended Plan for the Adjustment of Debts of the City of Detroit (October 22, 2014) at Dkt # 8045.
- i. "Weiss" means Weiss Construction Company, a/k/a/ Weiss Construction co, a/k/a Weiss Construction Co LLC.
- 2. The City and Weiss are parties to the Executory Contracts.
- 3. No Cure Amount Claim or other amount is required to be paid on, or promptly

after, the Effective Date of the Plan, in connection with any of the Executory Contracts and, to the extent applicable, all of the requirements described in section 365(b) of the Bankruptcy Code, or which may otherwise exist in order to assume the Executory Contracts under the Plan and the Bankruptcy Code, have been satisfied in connection with each of the Executory Contracts.

- 4. Each of the Executory Contracts is assumed effective as of the Effective Date.

5. The assumption of the Executory Contracts under section 365 of the Bankruptcy Code and the Plan shall not modify, waive or otherwise affect any rights, remedies, claims or defenses of either party against the other in or under any of the Executory Contracts, including, and notwithstanding paragraph 6 below, any rights, remedies, or claims asserted in Claim No. 3491 or any defenses thereto. However, neither the City nor Weiss shall have any right, remedy, claim or defense concerning the Executory Contracts in the Chapter 9 Case that arose or arises under the Bankruptcy Code or other bankruptcy law, the Plan or the Confirmation Order.

6. Claim No. 3491 is disallowed and expunged in its entirety, no distribution will be made or required under the Plan on account of Claim No. 3491, and the City's claims agent is authorized to update the claims register accordingly.

7. Nothing in this Order is intended to, nor shall it, revive, reinstate or affirm any rights, remedies, claims or defenses of either party against the other that expired or were otherwise barred, satisfied, released, waived or discharged as of, or upon the occurrence of, the Effective Date of the Plan. However, each party reserves the right to argue that any rights, remedies, claims or defenses of either party against the other did not expire or were not otherwise barred, satisfied, released, waived or discharged as of, or upon the occurrence of, the Effective Date of the Plan.

8. Nothing in this Order modifies, or shall be construed as a modification of, the Plan or the Confirmation Order.